

In the Court of Appeals of the State of Alaska

Andrew C. Horton II,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-13538**

Order

Date of Order: **9/30/21**

Trial Court Case No. **3AN-13-05305CR**

The State has filed a motion requesting permission to supplement the appellate record with a discovery document (a confidential three-page report) that both parties were aware of during litigation in the trial court, but that was not made part of the trial court record. The Appellant, represented by Attorney Dan Bair, opposes the State's motion primarily on the ground that because this document is not part of the trial court record, it was never presented to the trial court.

Under the appellate rules, material that was never presented to the trial court may not be added to the record on appeal. *See* Appellate Rule 210(a). Therefore, the State's motion to supplement the appellate record is DENIED. This denial is without prejudice and the State may renew its motion if it can show that the trial court was in fact aware of and relied upon the three-page document when making findings or ruling on an issue contested in this appeal.

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts



Kaitlin D'Eimon, Deputy Clerk

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